

# HOUSE BILL 5

G2, L2  
HB 993/11 – ENV

(PRE-FILED)

2lr0703  
CF 2lr0702

By: **Delegate Frush**

Requested: October 12, 2011

Introduced and read first time: January 11, 2012

Assigned to: Environmental Matters

## A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Development and Ethics Reform Act of 2012**

3 FOR the purpose of establishing a Board of Planning and Zoning Appeals in Prince  
4 George's County; providing for the membership, appointment, terms, and  
5 responsibilities of the Board; transferring certain powers and responsibilities of  
6 the County Council of Prince George's County, sitting as a district council, to  
7 the Board; authorizing the Board to make certain decisions on certain zoning  
8 map amendment and special exception applications; requiring a certain vote for  
9 the approval of certain zoning map amendments and certain special exceptions;  
10 authorizing the Board to consider and adopt certain requirements, safeguards,  
11 and conditions in approving certain zoning map amendments; prohibiting the  
12 Board from imposing certain requirements, safeguards, or conditions;  
13 authorizing appeal and judicial review of certain decisions; specifying the terms  
14 of the initial members of the Board; providing for the construction of this Act;  
15 and generally relating to development and ethics reform in Prince George's  
16 County.

17 BY adding to

18 Article 28 – Maryland–National Capital Park and Planning Commission  
19 Section 8–103.1  
20 Annotated Code of Maryland  
21 (2010 Replacement Volume and 2011 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article 28 – Maryland–National Capital Park and Planning Commission  
24 Section 8–104, 8–106, 8–109(a), 8–110, 8–110.1, 8–110.2, 8–111(b)(2), 8–121,  
25 8–122, 8–122.1(a), and 8–124  
26 Annotated Code of Maryland  
27 (2010 Replacement Volume and 2011 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article 28 – Maryland–National Capital Park and Planning Commission**

4 **8–103.1.**

5 (A) THERE IS A BOARD OF PLANNING AND ZONING APPEALS IN PRINCE  
6 GEORGE’S COUNTY.

7 (B) THE BOARD CONSISTS OF FIVE MEMBERS, APPOINTED BY THE  
8 COUNTY EXECUTIVE WITH THE ADVICE AND CONSENT OF THE COUNTY  
9 COUNCIL.

10 (C) EACH MEMBER SHALL BE:

11 (1) A RESIDENT OF THE REGIONAL DISTRICT IN PRINCE  
12 GEORGE’S COUNTY; AND

13 (2) A REGISTERED VOTER OF PRINCE GEORGE’S COUNTY.

14 (D) (1) THE TERM OF A MEMBER IS 5 YEARS AND BEGINS ON JUNE 1.

15 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY  
16 THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JUNE 1, 2012.

17 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE  
18 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

19 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN  
20 SERVES FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED  
21 AND QUALIFIES.

22 (5) A MEMBER WHOSE TERM HAS EXPIRED MAY BE REAPPOINTED  
23 TO THE BOARD.

24 (6) A VACANCY ON THE BOARD DOES NOT IMPAIR THE RIGHT OF  
25 THE REMAINING MEMBERS TO EXERCISE ALL OF THE POWERS OF THE BOARD.

26 (E) THE BOARD EACH YEAR SHALL ELECT A CHAIR AND A VICE CHAIR.

27 (F) (1) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF  
28 ITS MEETINGS.

1           **(2) THE BOARD SHALL ACT BY RESOLUTION, CONCURRED IN BY**  
2 **AT LEAST THREE MEMBERS.**

3           **(3) THE BOARD SHALL ADOPT AND AMEND RULES OF PROCEDURE**  
4 **CONSISTENT WITH THIS TITLE TO GOVERN THE ORGANIZATION AND**  
5 **PROCEDURES OF THE BOARD.**

6           **(4) THE BOARD, THE CHAIR, OR ANY OTHER OFFICER OF THE**  
7 **BOARD MAY ADMINISTER OATHS AND COMPEL THE ATTENDANCE OF WITNESSES.**

8           **(5) THE BOARD SHALL KEEP MINUTES OF ITS PROCEEDINGS.**

9           **(G) THE COUNTY EXECUTIVE:**

10           **(1) SHALL DETERMINE THE COMPENSATION OF THE MEMBERS OF**  
11 **THE BOARD; AND**

12           **(2) MAY PROVIDE STAFF FOR THE BOARD.**

13 8–104.

14           (a) (1) **[After] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**  
15 **SUBSECTION, AFTER** duly advertised public hearing each district council from time to  
16 time may amend its regulations or any regulation, including the maps or any map, in  
17 accordance with procedures established in the respective zoning ordinances. The  
18 procedures and ordinances may include, but not be limited to: (i) procedures limiting  
19 the times during which amendments may be adopted; (ii) provisions for hearings and  
20 preliminary determinations by an examiner, board or other agency; (iii) procedures for  
21 quorums, number of votes required to enact amendments and variations or increases  
22 therein based upon such factors as master plans, recommendations of the hearing  
23 examiner, planning board, municipality, or other body, and petitions of abutting  
24 property owners, and the evidentiary value which may be accorded to any or all of  
25 these; and (iv) procedures for hearing, notice, costs, and fees, amendment of  
26 applications, stenographic records, reverter, lapse, and reconsideration de novo of  
27 undeveloped zoning amendments. The existing provisions of the Regional District Law  
28 and of the ordinances enacted by the respective district councils relating to the  
29 foregoing matters shall remain in full force and effect unless or until specifically  
30 superseded or amended in accordance with the power and authority granted herein,  
31 but no such amendment may be made by a district council, in a year in which the  
32 council is elected, after the 31st day of October and until the newly elected council is  
33 duly qualified and has taken office.

34           (2) In Montgomery County all applications which seek a zoning  
35 classification, either euclidean or floating, other than that which is indicated to be  
36 appropriate or suitable in the text or on the land use map of an adopted master plan,

1 approved by the district council, under the provisions of § 7–108(e) of this article, shall  
2 be granted only by the affirmative vote of 6 members of the district council. If the  
3 application for reclassification is recommended for approval by the Commission or if  
4 the application is for a zoning classification created after the approval of the master  
5 plan by the council, then an affirmative vote of 5 members of the district council is  
6 required to grant the application or applications. In all other cases, an application may  
7 not be granted except by affirmative vote of at least 5 members of the district council.

8 (3) (I) In Prince George’s County [the district council shall require:

9 (i) A two-thirds vote of all members of the district council to  
10 approve a zoning map amendment if the zoning map amendment is contrary to an  
11 approved master plan;

12 (ii) A two-thirds vote of all members of the district council to  
13 approve a zoning map amendment or a special exception if the zoning map  
14 amendment or special exception is contrary to the recommendation of a municipal  
15 corporation that has any portion of the land subject to the zoning map amendment or  
16 special exception within the municipal boundaries; and

17 (iii) A two-thirds vote of all members of the district council and a  
18 four-fifths vote of all members of the planning board to approve an optional parking  
19 plan if the], **SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH,**  
20 **THE BOARD OF PLANNING AND ZONING APPEALS SHALL HEAR AND DECIDE**  
21 **EACH APPLICATION FOR A LOCAL ZONING MAP AMENDMENT OR A SPECIAL**  
22 **EXCEPTION.**

23 (II) **A LOCAL ZONING MAP AMENDMENT THAT IS CONTRARY**  
24 **TO AN APPROVED MASTER PLAN OR CONTRARY TO THE RECOMMENDATION OF A**  
25 **MUNICIPAL CORPORATION THAT HAS ANY PORTION OF THE PROPERTY SUBJECT**  
26 **TO THE MAP AMENDMENT WITHIN THE MUNICIPAL BOUNDARIES MAY BE**  
27 **APPROVED ONLY BY THE AFFIRMATIVE VOTE OF AT LEAST FOUR MEMBERS OF**  
28 **THE BOARD OF PLANNING AND ZONING APPEALS.**

29 (III) **A SPECIAL EXCEPTION THAT IS CONTRARY TO THE**  
30 **RECOMMENDATION OF A MUNICIPAL CORPORATION THAT HAS ANY PORTION OF**  
31 **THE PROPERTY SUBJECT TO THE SPECIAL EXCEPTION WITHIN THE MUNICIPAL**  
32 **BOUNDARIES MAY BE APPROVED ONLY BY THE AFFIRMATIVE VOTE OF AT LEAST**  
33 **FOUR MEMBERS OF THE BOARD OF PLANNING AND ZONING APPEALS.**

34 (IV) **AN optional parking plan THAT is contrary to the**  
35 **recommendation of a municipal corporation that has any portion of the land subject to**  
36 **the optional parking plan within the municipal boundaries MAY BE APPROVED BY**  
37 **THE AFFIRMATIVE VOTE OF AT LEAST TWO–THIRDS OF THE MEMBERS OF THE**

1 DISTRICT COUNCIL AND AT LEAST FOUR-FIFTHS OF THE MEMBERS OF THE  
2 PLANNING BOARD.

3 (b) Before any map amendment is passed it shall be submitted to the  
4 appropriate planning board and to the governing body of the incorporated municipality  
5 in which the land is located, for approval, disapproval, or suggestions.

6 Each district council may provide by ordinance procedures to be followed by the  
7 planning boards and municipalities in considering zoning map amendments to the  
8 extent that these provisions are not in conflict with the provisions of this article.

9 (c) (1) [Before] **IN MONTGOMERY COUNTY, BEFORE** the district council  
10 [of the Maryland–Washington Regional District in Montgomery County and Prince  
11 George’s County] may amend the zoning ordinance [of either county] by changing the  
12 zoning classification of property within any incorporated municipality, the application  
13 for the change shall be referred to the governing body of the incorporated municipality  
14 for its recommendation, allowing the governing body 60 days in which to make its  
15 recommendation. However, a two-thirds majority of all the members of the district  
16 council is required before the council may change the zoning classification of property  
17 within any incorporated municipality contrary to the recommendation of the  
18 municipality. For purposes of this section the term “incorporated municipality”  
19 includes any city, town, village, or special taxing area which has an elected local  
20 governing body and performs general municipal functions.

21 (2) (I) **IN PRINCE GEORGE’S COUNTY, IF ANY PORTION OF A**  
22 **PROPERTY SUBJECT TO AN APPLICATION FOR A CHANGE IN ZONING**  
23 **CLASSIFICATION LIES IN A MUNICIPAL CORPORATION, THE APPLICATION SHALL**  
24 **BE REFERRED TO THE MUNICIPAL CORPORATION FOR ITS RECOMMENDATION.**

25 (II) **THE MUNICIPAL CORPORATION SHALL MAKE ITS**  
26 **RECOMMENDATION WITHIN 60 DAYS AFTER RECEIVING THE APPLICATION**  
27 **REFERRAL.**

28 (d) (1) In this subsection, “custodian” means the custodian of the records  
29 of a zoning map amendment case in Prince George’s County.

30 (2) [Before] **IN PRINCE GEORGE’S COUNTY, BEFORE** the  
31 Commission sends a zoning map amendment case to the [district council in Prince  
32 George’s County] **BOARD OF PLANNING AND ZONING APPEALS**, the Commission is  
33 the custodian of the records of the case. After the Commission sends a zoning map  
34 amendment case to the [district council in Prince George’s County] **BOARD OF**  
35 **PLANNING AND ZONING APPEALS**, the [district council] **BOARD** is the custodian of  
36 the records of the case.

1                   (3)   (i)    Correspondence or documents submitted to a custodian shall  
2 be received only in accordance with any applicable statute, ordinance, rule of evidence,  
3 or case law.

4                   (ii)   All applications for zoning map amendments and all official  
5 correspondence and records relating thereto, prepared or received by the custodian,  
6 shall be made available to the public during regular business hours of the custodian,  
7 but the custodian may publish rules to prevent this access from unreasonably  
8 disrupting its official business. However, under any circumstances, copies of technical  
9 staff reports shall be available at the office of the custodian for the public.

10                  (4)   (i)    In Prince George's County, a person who personally appears  
11 at the office of the custodian may obtain, without charge, a copy of a public document  
12 if the document:

13                               1.    Is of letter or legal size; and

14                               2.    Pertains to a specific zoning case, including zoning  
15 applications and justification statements.

16                   (ii)   The purpose of subparagraph (i) is to supplement any  
17 present laws, rules, or policies that the custodian follows when making public  
18 documents available.

19                  (e)   (1)   In **PRINCE GEORGE'S COUNTY, IN** approving any local map  
20 amendment [after July 1, 1968,] under this section, the [district council for Prince  
21 George's County] **BOARD OF PLANNING AND ZONING APPEALS** may give  
22 consideration to and adopt whatever reasonable requirements, safeguards, and  
23 conditions as may in its opinion be necessary either to protect surrounding properties  
24 from adverse effects which might accrue from the zoning amendment, or which would  
25 further enhance the coordinated, harmonious, and systematic development of the  
26 regional district. A statement of these conditions shall be included in the resolution  
27 granting the amendment and shall become a part thereof, and remain in effect for so  
28 long as the property remains zoned in accordance with the resolution and the  
29 applicable zoning classification requested. No building permit, use permit, or  
30 subdivision plat may be issued or approved for the property except in accordance with  
31 conditions set forth in the resolution. The district council **AND THE BOARD** may adopt  
32 ordinances, **RULES**, and regulations necessary to provide adequate notice, public  
33 hearings, and enforcement procedures for the implementation of this section.

34                  (2)   An applicant has 90 days from date of approval to accept or reject  
35 the land use classification conditionally approved. Should the applicant expressly  
36 reject the amendment as conditionally approved within the 90-day period, the zoning  
37 classification shall revert to its prior status.

1 (3) Notwithstanding any other provision of this article no  
2 requirements, safeguards or conditions may be imposed by the [district council]  
3 **BOARD OF PLANNING AND ZONING APPEALS** which would require the dedication of  
4 land for public use except for roads, streets, alleys, and easements.

5 (4) If any resolution, or any part or condition thereof, passed by the  
6 [district council] **BOARD OF PLANNING AND ZONING APPEALS** pursuant to this  
7 subsection is declared illegal, unconstitutional, or in any way invalid by any court of  
8 competent jurisdiction, the zoning category applicable to the property rezoned by the  
9 resolution shall revert back to the category applicable prior to the passage of the  
10 resolution, and the resolution shall be null and void and of no effect whatsoever.

11 (f) In Prince George's County, municipal corporations, as defined in Article  
12 23A, § 9(a), shall have concurrent authority within their boundaries with the  
13 Department of Inspections and Permits of Prince George's County to seek compliance  
14 with zoning requirements insofar as these requirements pertain to signs. Such  
15 municipalities may also enact legislation regulating fences erected in front of the  
16 building setback lines on all residential property located within the municipality.  
17 Enacted ordinances may not be less restrictive than any ordinance in effect or  
18 thereafter enacted by the County Council of Prince George's County.

19 8-106.

20 (a) In Prince George's County there shall be a stenographic record made by a  
21 duly authorized and competent stenographer or reporter of all hearings on petitions  
22 for zoning map amendments as provided herein. The stenographic record made may  
23 not be destroyed until the time for appeal or rehearing on any petition for zoning map  
24 amendments has expired.

25 (b) The person, corporation, or party making application for a zoning map  
26 amendment at the time of paying the advertising costs shall pay an additional filing  
27 fee of \$5. Any person, corporation, or party noting an appeal from [the] A decision of  
28 the [district council] **BOARD OF PLANNING AND ZONING APPEALS**, or who or which  
29 for any reason requests a transcript to be transcribed as herein provided, shall pay to  
30 the county the cost [of] **OR** estimated costs of transcribing the stenographic record.

31 (c) [Each] **THE** district council **AND THE BOARD OF PLANNING AND**  
32 **ZONING APPEALS** may include in [its] **THEIR RESPECTIVE** regulations provisions for  
33 additional notice of the public hearing on any proposal for amendment of [its] **THE**  
34 zoning plan or regulations, to be given to the owners (as they appear on the  
35 assessment rolls of the county) of properties adjoining or across the road from, or in  
36 the same block as, or in the general vicinity of, the properties involved in the proposed  
37 amendment. The notice may be given by mail or by posting of the notice on or in the  
38 vicinity of the properties involved in the proposal, or both.

1 (d) For purposes of this section and §§ 8–104 and 8–105 of this article herein,  
2 the word “amend” or “amendment” shall be deemed to include any modification of the  
3 text or phraseology of a regulation or of any provision of the regulations, or any repeal  
4 or elimination of any regulation or part thereof, or any addition to the regulations, or  
5 any new regulation, or any change in the number, shape, boundary, or area of the  
6 districts, or of any district, or any repeal or abolition of any map or part thereof, or any  
7 addition to any map, or any new map, or any other change in the map or maps. For the  
8 purpose of this and other sections of this title the words “regulate”, “regulation”, or  
9 “regulations” shall be deemed to include “restrict”, “restrictions”, “limit”, “limitations”,  
10 “prohibit” and “prohibitions”.

11 (e) In Prince George’s County, any incorporated municipality located in  
12 Prince George’s County, any person or taxpayer in Prince George’s County, any civic or  
13 homeowners association representing property owners affected by a final [district  
14 council] decision **OF THE BOARD OF PLANNING AND ZONING APPEALS OR THE**  
15 **DISTRICT COUNCIL**, and, if aggrieved, the applicant may have judicial review of any  
16 final decision of the **BOARD OR THE** district council. Proceedings for review shall be  
17 instituted by filing a petition in the Circuit Court of Prince George’s County within 30  
18 days after service of the final decision [of the district council], which may be served  
19 upon all persons of record [at the district council’s hearing]. Copies of the petition  
20 shall be served on the **BOARD OR THE** district council and all other persons of record  
21 in the manner provided by the rules of court. The filing of the petition does not stay  
22 enforcement of the [district council’s] decision **OF THE BOARD OR THE DISTRICT**  
23 **COUNCIL**; but the **BOARD OR THE** district council may do so, or the reviewing court  
24 may order a stay upon terms it deems proper.

25 (f) Within 30 days [of] **AFTER** service of a petition or within whatever  
26 further time as the court may allow, the **BOARD OF PLANNING AND ZONING**  
27 **APPEALS OR THE** district council shall transmit to the reviewing court the original or  
28 a certified copy of the entire record of proceeding under review. By stipulation of all  
29 parties to the review proceeding, the record may be shortened. Any party  
30 unreasonably refusing to stipulate to limit the record may be taxed by the court for the  
31 additional cost. The court may require or permit subsequent corrections to the record  
32 when deemed advisable.

33 (g) If written application by petition to show cause is made to the court  
34 before the date set for hearing for leave to present additional evidence on the issues in  
35 the case either by the party appealing or any party in interest, and if it is shown to the  
36 satisfaction of the court after a hearing thereon that the additional evidence is  
37 material and that there were good reasons for failure to present it in the proceedings  
38 before the **BOARD OF PLANNING AND ZONING APPEALS OR THE** district council, the  
39 court shall order that the additional evidence be taken before the **BOARD OR THE**  
40 district council upon conditions which the court deems proper, and the case shall be  
41 forthwith remanded [to the district council] for the taking of additional testimony. In  
42 cases in which the additional evidence is taken before the **BOARD OR THE** district  
43 council, the **BOARD OR THE** district council may modify or reverse its previous

1 findings and decision by reason of the additional evidence and shall file with the  
2 reviewing court, to become part of the record, the additional evidence together with  
3 any modifications or new findings or decision.

4 (h) The review shall be conducted by the court without a jury. In cases of  
5 alleged irregularities in procedure before the **BOARD OF PLANNING AND ZONING**  
6 **APPEALS OR THE** district council not shown in the record, testimony thereon may be  
7 taken in the court. The court upon request shall hear oral argument and receive  
8 written briefs.

9 (i) The court may affirm the decision of the **BOARD OF PLANNING AND**  
10 **ZONING APPEALS OR THE** district council or remand the case for further proceedings;  
11 or it may reverse or modify the decision if the substantial rights of the petitioners have  
12 been prejudiced because the administrative findings, inferences, conclusions, or  
13 decisions are (1) in violation of constitutional provisions; or (2) in excess of the  
14 statutory authority or jurisdiction of the agency; or (3) made upon unlawful procedure;  
15 or (4) affected by other error of law; or (5) unsupported by competent, material and  
16 substantial evidence in view of the entire record as submitted; or (6) arbitrary or  
17 capricious.

18 (j) In Prince George's County, the **BOARD OF PLANNING AND ZONING**  
19 **APPEALS, THE** district council, the applicant, or any party to the circuit court review  
20 who is an aggrieved party may secure a review of any final judgment of the Prince  
21 George's County Circuit Court under this title by appeal to the Court of Special  
22 Appeals. The appeal shall be taken in the manner provided by law for appeals from  
23 law courts in other civil cases. Each member of the district council in Prince George's  
24 County is entitled to vote on whether the district council shall appeal to the Court of  
25 Special Appeals, regardless of whether the member participated in the hearing on the  
26 matter or in the decision.

27 (k) This section applies only in that portion of the regional district that lies  
28 within Prince George's County.

29 8-109.

30 (a) No clerk of the Circuit Court of Montgomery County or of Prince George's  
31 County, no administrative official, no licensing body or board, and no person whatever  
32 may issue a license or permit for any commercial or industrial purpose or for the  
33 conducting of any commercial or industrial enterprise or business whatsoever in a  
34 residential zone, that is, in any district designated on the zone maps as residential  
35 within the regional district, unless the purpose, enterprise, or business is allowed by  
36 the applicable zoning ordinance under permitted uses or special exceptions granted by  
37 the board of appeals **IN MONTGOMERY COUNTY OR THE BOARD OF PLANNING**  
38 **AND ZONING APPEALS IN PRINCE GEORGE'S COUNTY.**

39 8-110.

1 (a) (1) A district council in either county, in its zoning regulations, may  
2 provide that the board of zoning appeals, **THE BOARD OF PLANNING AND ZONING**  
3 **APPEALS**, the district council, or an administrative office or agency designated by the  
4 district council, in appropriate cases and subject to appropriate principles, standards,  
5 rules, conditions, and safeguards set forth in the regulations, may either grant or  
6 deny, upon conditions as may be deemed necessary to carry out the purposes of this  
7 article, special exceptions and variances to the provisions of the zoning regulations in  
8 harmony with their general purposes and intent.

9 (2) (i) In Montgomery County, the district council in its zoning  
10 regulations may provide that the affirmative vote of:

11 1. At least four members of the board of appeals are  
12 required to adopt a resolution that grants, revokes, suspends, amends, extends the  
13 time in which to implement, or modifies a special exception; and

14 2. A majority of the board of appeals is required to adopt  
15 a procedural motion regarding a special exception application.

16 (ii) In exercising its authority under this paragraph, the district  
17 council may enact, for any zone, different voting requirements for different uses.

18 (3) (I) In Prince George's County [the district council shall provide  
19 for the appeal of decisions], **SUBJECT TO SUBPARAGRAPH (II) OF THIS**  
20 **PARAGRAPH, FINAL DECISIONS** of the zoning hearing examiner in special exception  
21 and variance cases **MAY BE APPEALED** to the [district council. However, if] **BOARD**  
22 **OF PLANNING AND ZONING APPEALS**.

23 (II) **IF** a special exception is contrary to the recommendation of a  
24 municipal corporation that has any portion of the property subject to the special  
25 exception within the municipal boundaries, the [district council shall require a  
26 two-thirds vote of all district council members] **AFFIRMATIVE VOTE OF AT LEAST**  
27 **FOUR BOARD MEMBERS IS REQUIRED** to approve the special exception.

28 (4) The decisions of the administrative office or agency in Montgomery  
29 County shall be subject to an appeal to either the board of appeals or other  
30 administrative body as may be designated by the district council.

31 (5) In either county, the appeal shall follow that procedure which may  
32 from time to time be determined by the district council.

33 [(5)] (6) The district council in either county also may authorize the  
34 board of zoning appeals to interpret the zoning maps or pass upon disputed questions  
35 of lot lines or district boundary lines or similar questions as they arise in the  
36 administration of the regulations.

1 (b) In Montgomery County, notwithstanding any provision in Article 25A, §  
2 5(U), of the Annotated Code to the contrary, a decision by the county board of appeals  
3 on applications for zoning variations or exceptions may be appealed within 30 days by  
4 any person, municipality, corporation, or association, whether or not incorporated,  
5 which has appeared at the hearing in person, by attorney, or in writing, to the circuit  
6 court for the county, which may affirm or reverse the decision appealed from or  
7 remand it to the board for further consideration for any reason, or dismiss the appeal  
8 as provided by law. Any party to the proceedings in the circuit court may appeal from  
9 such decision to the Court of Special Appeals. The review proceedings provided by this  
10 section are exclusive.

11 (c) (1) In Prince George's County, prior to any hearing by a zoning  
12 hearing examiner [and the district council] **OR THE BOARD OF PLANNING AND**  
13 **ZONING APPEALS** concerning a request for a special exception for the mining of sand  
14 or gravel, a report shall be prepared in accordance with this subsection.

15 (2) Any report required under paragraph (1) of this subsection shall:

16 (i) Be prepared by the Commission;

17 (ii) Comprehensively evaluate the request by analyzing the  
18 impact of the proposed mining activities on the surrounding area, considering only the  
19 following factors:

20 1. Noise;

21 2. Watershed and water quality;

22 3. Airshed and air quality;

23 4. Traffic and traffic safety; and

24 5. Any other environmental factors relating to the  
25 health, safety, and welfare of the residents in the affected area; and

26 (iii) Be paid for by the applicant through a fee for the services  
27 performed by the Commission, not to exceed \$8,000, in addition to the initial filing fee.

28 8-110.1.

29 [The District Council of] **IN** Prince George's County, **THE BOARD OF**  
30 **PLANNING AND ZONING APPEALS** may not approve a special exception to construct  
31 or operate a rubble landfill at a site, if an application for a special exception to  
32 construct or operate a rubble landfill at the site was previously denied on or after  
33 October 1, 1981.

1 8–110.2.

2 [The District Council of] **IN** Prince George’s County, **THE BOARD OF**  
3 **PLANNING AND ZONING APPEALS** may not approve a special exception to construct  
4 or operate a rubble landfill at a site without [a three–fourths majority vote of the  
5 District Council] **THE AFFIRMATIVE VOTE OF AT LEAST FOUR MEMBERS OF THE**  
6 **BOARD.**

7 8–111.

8 (b) Upon appeals, the board of zoning appeals has the following powers:

9 (2) To hear and decide, in accordance with the provisions of the  
10 regulations enacted by the district council, requests for [special exceptions or] map  
11 interpretations or for decisions upon permits for extensions, substitutions,  
12 restorations, reinstatements, or reconstructions of lawful nonconforming uses or other  
13 special questions upon which the board of zoning appeals is required or authorized by  
14 the zoning regulations to pass.

15 8–121.

16 In Prince George’s County, the record of every hearing on a map amendment or  
17 special exception shall recite the vote or abstention from voting of each member of the  
18 [district council] **BOARD OF PLANNING AND ZONING APPEALS**, stated separately, or  
19 the fact that the member was absent.

20 8–122.

21 In Prince George’s County, all witnesses appearing in a hearing before the  
22 **BOARD OF PLANNING AND ZONING APPEALS OR THE** district council are subject to  
23 cross–examination. However, the district council may establish reasonable rules and  
24 procedures governing both the cross–examination and the administering of oaths to  
25 witnesses appearing to testify [at district council hearings], after first conducting a  
26 public hearing on the rules and procedures.

27 8–122.1.

28 (a) Notwithstanding any other provision of the Code, the district council for  
29 Prince George’s County may authorize in its rules and procedures the representation  
30 before the Prince George’s County planning board, the district council, **THE BOARD**  
31 **OF PLANNING AND ZONING APPEALS**, the zoning hearing examiner, or the board of  
32 zoning appeals, of any bona fide civic association or homeowner’s association by any  
33 duly elected officer of the association regardless of whether that individual is an  
34 attorney.

35 8–124.

1           In Prince George’s County, if the [district council] **BOARD OF PLANNING AND**  
2 **ZONING APPEALS** disapproves, in whole or in part, an application for a map  
3 amendment, it may not entertain a subsequent application respecting the same land  
4 or any portion thereof within 18 months from the date of the first disapproval, and 24  
5 months from the date of the second or further disapproval. As used in this section,  
6 date of disapproval means the date upon which the [district council] **BOARD**  
7 announces its decision, or, in the event of appellate review, the date upon which the  
8 Circuit Court announces its decision. In any subsequent application respecting the  
9 same land or any portion thereof, for the same zoning classification or the same special  
10 exception purpose, by the same applicant or applicants, the [district council] **BOARD**  
11 may not base its findings solely upon any fact or circumstance which was presented at  
12 the earlier hearing.

13           **SECTION 2. AND BE IT FURTHER ENACTED,** That the terms of the initial  
14 members of the Board of Planning and Zoning Appeals in Prince George’s County shall  
15 expire as follows:

- 16                   (1)     one member in 2014;
- 17                   (2)     one member in 2015;
- 18                   (3)     one member in 2016;
- 19                   (4)     one member in 2017; and
- 20                   (5)     one member in 2018.

21           **SECTION 3. AND BE IT FURTHER ENACTED,** That the powers and authority  
22 conferred on the Board of Planning and Zoning Appeals by Article 28, §§ 8–104, 8–106,  
23 and 8–110 of the Code, as enacted by Section 1 of this Act, may not be construed to be  
24 in derogation of any powers now existing in the Board of Zoning Appeals for Prince  
25 George’s County.

26           **SECTION 4. AND BE IT FURTHER ENACTED,** That this Act shall take effect  
27 June 1, 2012.